

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

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Refer Reply To:

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Date:

June 27, 2002

RE:

Dear

This general information letter is in response to your letter dated April 10, 2002, addressed to the Associate Chief Counsel (Procedure & Administration) regarding elections to credit overpayments against estimated taxes for the next tax year.

In your letter, you present the following fact pattern:

A calendar year corporate taxpayer elects to have the overpayment shown on its late filed federal income tax return for Year 1 (e.g., extended due date is September 15, Year 2, and the return is filed December 15, Year 2) to its estimated tax liability for the subsequent tax year (Year 2). The entire overpayment is attributable to prepaid credits, (i.e., payments made before the unextended return due date). In order to avoid a penalty under I.R.C. § 6655), the overpayment would be need to be applied to the first installment of Year 2 estimated tax (due April 15, Year 2).

You pose the following questions:

- 1 What is the availability date of the overpayment reported on the late-filed return for Year 1?
- 2 Would the taxpayer's election to have the Year 1 overpayment applied to its liability for Year 2 estimated tax be honored by the IRS?
- 3 If so, would the overpayment be applied to the first installment of Year 2 estimated tax?

Prepaid credits are deemed paid as of the due date of the return, determined without regard to any extension of time to file, whether the return is timely or late filed. See § 6513(b)(1) and (2) of the Internal Revenue Code and IRM 20.2.4.3 (03-01-2002). The prepaid credits are available for crediting as of the return due date. Thus, in your

example, the availability date for the overpayment is the due date of the corporation return determined without extensions, *i.e.*, on March 15, Year 2.

Section 6402(b) provides that when a taxpayer has an overpayment of income tax, the taxpayer may elect to have all or part of the overpayment credited against the taxpayer's estimated income tax for the following year. The IRS would thus honor the election to have the Year 1 overpayment applied to its liability for Year 2 estimated tax. See also § 301.6402-3(a)(5) of the Regulations on Procedure and Administration.

If the taxpayer has elected to credit the overpayment to the succeeding year's estimated tax liability, the overpayment is applied to the unpaid installments of estimated tax due on or after the date the overpayment arose in the order in which they are required to be paid to avoid an addition to tax under § 6654 and § 6655. See Rev. Rul. 99-40, 1999-40 I.R.B. 441. In your example, the overpayment is applied on April 15, Year 2 to the extent necessary to avoid an addition to tax under § 6655.

We hope that this general information letter will be helpful in understanding the credit elect provisions of the Code. If you have any questions, please call _____ at (202) 622-4910.

Sincerely yours,

John J. McGreevy
Assistant to the Branch Chief
Branch 1
Administrative Provisions and Judicial Practice